

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Kevin Braithwaite

Plaintiff,

v.

Marcello Rispoli et al.,

Defendants.

C.A. No. 04-1542-GMS

Trial by Jury Demanded

AFFIDAVIT OF DAVE HALL

Dave Hall, having been duly sworn according to law, deposes and states as follows:

1. I am employed by the State of Delaware, Department of Correction ("DOC") at the Delaware Correctional Center ("DCC") Smyrna, Delaware as a Warden. I have been employed by the DOC since 1981. My duties include Commander DOC Emergency Response Team, Transportation Unit, and K9 Training Division.

2. Conditions under which force is used is based on a realistic evaluation of the actual need for that application on a case by case basis. The officer's perception of the threat presented is critical to the evaluation of uses of force. The Department of Correction does not employ a rigid use of force model. This is to say that Officers are trained in a variety of physical control techniques and instruments for use in defense of themselves and others and are given instruction on the appropriate application of each. For use of force, the offender's behavior is categorized as cooperative, resister or assailant. The cooperative offender is one who responds to personnel with or without

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direction posing a variable risk. Specific verbal instructions, persuasion and/or warnings by personnel is sufficient to maintain physical control regarding cooperative offenders.

3. The resister offender's behavior can be passive or active. A passive offender is one who fails to respond to verbal commands. If inter-personal communication is unsuccessful then physical control can be applied. An active resister is an offender who physically resists control by authorities. In these instances, defensive controls or instruments may be implemented to control or move the offender(s) who failed to comply with lawful orders.

4. The third category is the offender assailant. Offender actions that are aggressively offensive and threatening without the use of weapons, can be met by physical force with control instruments or impact weapons. The amount of force used will be only that much as is reasonable and necessary to gain or retain control of the situation. Assailant actions that will probably cause death or serious physical injury can be met with firearms and/or other lethal force.



Dave Hall

SWORN TO AND SUBSCRIBED before me this 29 day of 5, 2007.



Notary

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